

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ELLEN K. KENNETT,

Plaintiff,

v.

CAROLYN W COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 14-cv-05770 JRC

ORDER GRANTING MOTION FOR
ATTORNEY'S FEES PURSUANT
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6).

This matter is before the Court on plaintiff's Amended Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 26). Defendant has no objection to plaintiff's request (*see* Dkt. 27).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*

1 *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first
2 to such agreement and will conduct an independent review to assure the reasonableness of the
3 fee requested, taking into consideration the character of the representation and results achieved.
4 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
5 fee agreement is the primary means for determining the fee, the Court will adjust the fee
6 downward if substandard representation was provided, if the attorney caused excessive delay, or
7 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151
8 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

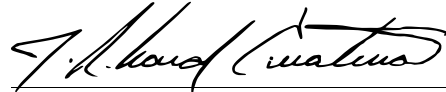
9 Here, the representation was standard, at least, and the results achieved excellent (*see*
10 Dkt. 26, Attachments 3, 7). *See Grisbrecht, supra*, 535 U.S. at 808. This Court remanded this
11 matter to the Administration for further proceedings and following a second hearing, the
12 Administrative Law Judge awarded disability benefits to plaintiff (*see* Dkt. 26, Attachments 1,
13 3). There has not been excessive delay and no windfall will result from the requested fee.

14 Plaintiff's total back payment was \$42,019.30 (*see* Dkt. 26, Attachments 3, 7). Plaintiff
15 has moved for a net attorney's fee of \$439.80 (*see* Amended Motion, Dkt. 26, p. 1), and the
16 Court has considered plaintiff's gross attorney's fee of \$10,504.82; the EAJA award received by
17 plaintiff's attorney in the amount of \$6,300.71 (Dkt. 26, Attachment 6); and the additional
18 voluntary reduction of \$3,764.31 (*see* Dkt. 26, p. 1). *Parish v. Comm'r. Soc. Sec. Admin.*, 698
19 F.3d 1215, 1221 (9th Cir. 2012).

20 Based on plaintiff's motion and supporting documents (*see* Dkt. 26, Attachments 1, 3, 4,
21 5, 6, 7), and with no objection from defendant (Dkt. 28), it is hereby ORDERED that attorney's
22 fees in the amount of \$439.80, minus any applicable processing fees as allowed by statute, be
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1 awarded to plaintiff's attorney pursuant to 42 U.S.C. § 406(b). After paying the attorney's fees,
2 Social Security shall release all remaining funds directly to plaintiff.

3 Dated this 30th day of August, 2016.

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5 J. Richard Creatura
6 United States Magistrate Judge
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